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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re S.T., a Person Coming
Under the Juvenile Court
Law.

B289716

(Los Angeles County
Super. Ct.Nos.
17CCJ00491/17CCJP00491A)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and
Respondent,

v.

JOHN J.,

Defendant and
Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County, Kristen Byrdsong, Juvenile Court Referee. Dismissed.

John L. Dodd, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Tracey F. Dodds, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

John J. (father) appeals from a finding of dependency jurisdiction pursuant to Welfare and Institutions Code¹ section 300 over his young daughter, S. Father challenges some, but not all, of the jurisdictional findings regarding his conduct and none of the findings regarding the conduct of S.'s mother (mother). As such, he concedes that the court will maintain jurisdiction over S. regardless of the outcome of this appeal. Nevertheless, he urges us to exercise our discretion to consider his claims. We decline to do so and dismiss the appeal.

FACTS AND PROCEDURAL BACKGROUND

Father and mother have one child, S., born in 2016.² The Los Angeles County Department of Children and Family Services (DCFS) filed a dependency petition on behalf of S. (then 11 months old) in September 2017, under section 300, subdivisions (a), (b)(1), and (j).³ In count a-1, the petition alleged that mother

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise stated.

² Mother is not a party to this appeal.

³ The court may take jurisdiction under section 300, subdivision (a) when “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm

and father “have a history of engaging in violent physical altercations.” DCFS alleged that in the precipitating incident on September 19, 2017, mother assaulted father with a knife, resulting in “bleeding lacerations on the father’s arms.” Father also “forcibly threw mother to the ground” and she sustained bruises to her legs and shoulder. This altercation occurred in the home with S. present. DCFS further alleged that in July 2017, mother “stabbed the father’s neck.” DCFS alleged that this violent conduct by mother and father endangered S.’s physical health and safety and placed her at risk of serious physical harm.

Count b-1 alleged the same domestic violence conduct by father and mother. In count b-2, DCFS alleged that father had a history of “mental and emotional problems, including Bi-polar Disorder, Schizophrenia and self mutilation behavior” which rendered him unable to provide regular care to S., father had failed to obtain psychiatric treatment, and mother knew of these problems but failed to protect S., resulting in a risk of serious physical harm to S. Count b-3 alleged that mother had a history of substance abuse, which rendered her unable to provide regular

inflicted nonaccidentally upon the child by the child’s parent.” Section 300, subdivision (b)(1), in pertinent part, applies where the child “has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness,” either: (1) as a result of the failure or inability of the parent “to adequately supervise or protect the child”; (2) as a result of the parent’s willful or negligent failure to adequately supervise or protect the child “from the conduct of the custodian with whom the child has been left”; or (3) by the inability of the parent to “provide regular care for the child” due to the parent’s mental illness or substance abuse. Section 300, subdivision (j) applies where the child’s sibling has been abused or neglected and there is a “substantial risk that the child will be abused or neglected.”

care for S. Further, mother had seven other children, all of whom came under the court's jurisdiction and were ultimately adopted due to mother's substance abuse. Mother's substance abuse and father's failure to protect S. placed S. at risk of serious physical harm. In count b-4, DCFS alleged that father was a current abuser of marijuana, which rendered him unable to provide regular care for S., and placed S. at risk of serious physical harm. In count b-5, DCFS alleged that mother and father placed S. in a "detrimental and endangering situation" on September 19, 2017, as "drug paraphernalia was found in the child's home within access of the child."

Count j-1 echoed the allegations regarding mother's substances abuse and resulting loss of custody of her other children, as well as father's failure to protect S., thereby placing S. at risk of physical harm.

DCFS detained S. from both mother and father and placed her in foster care. In the detention report, DCFS provided additional details regarding the domestic violence incident on September 19, 2017. According to the responding police officers, when they arrived at the home, they found father naked, looking dazed, staring at a blank television screen, and bleeding from his arm, neck, and cheek. He told officers that mother had stabbed him. Mother told officers that father had intentionally cut himself on his arm. The officers found the home was dirty and there were "pipes and paraphernalia within a child's reach." The officers also stated that S. was dirty, naked, and crying in her crib when they arrived, and that she had bruises on her shoulders and right temple with vertical markings along the shoulder blades. The medical evaluation noted the baby's distinct odor and raw, pink neck skin, indicating she had not

been cleaned for several days. The officers also reported that they had responded to several prior domestic violence calls between father and mother.

DCFS interviewed father at the hospital while he was treated for his injuries. He stated that mother came home upset and attacked him with a kitchen knife. He also said that mother had previously stabbed him in the neck. He denied any substance abuse or mental health issues.

DCFS interviewed mother the following day. She said that father was “bipolar schizophrenic but does not take medication and self medicates with marijuana.” She also stated that during the incident, father began “ranting,” then went into the restroom and began cutting himself. When he came out, he got blood on her and the baby. She also said she sustained bruises to her legs and shoulder when father threw her to the floor.

In an interview in October 2017, father told DCFS that during the incident on September 19, 2017, he and mother argued, then grabbed and pushed each other and fell down. He denied domestic violence in his relationship with mother and claimed neither of them were injured that night. Father also denied any history of mental health issues.

Father testified at the adjudication hearing on April 5, 2018. He denied various facts reported by the police, including that he was staring at a blank television screen and that S. was dirty, naked, and crying in her crib. He also denied that there were narcotics on the floor of the apartment and that S. had bruises. He denied getting into an altercation with mother that night, claiming they “only had words.” He testified that he was not injured that night and did not tell the police that mother had attacked him.

The court stated it did not find father's testimony credible, "given that it is directly contrary to what is reported in the . . . detention report and police report." The court indicated it had read and considered all of the evidence and found by a preponderance of the evidence that all of the counts were true as alleged.

At the disposition hearing on April 18, 2018, the court found by clear and convincing evidence that there was no reasonable means to protect S. other than removal from father and mother's custody. The court declared S. a dependent of the court under section 300, subdivisions (a), (b), and (j). The court ordered S. removed from her parents, continued her placement in foster care, and monitored visitation for father and mother.

Father filed a timely notice of appeal.

DISCUSSION

Although father appeals from the court's dispositional order, he is challenging only the court's sustaining of the jurisdictional allegations under section 300, subdivision (a). He does not challenge the findings regarding his conduct under section 300, subdivisions (b) or (j), nor does he challenge the assertion of jurisdiction based on mother's conduct. Given this posture, father acknowledges that the court's jurisdictional orders will not be reversed regardless of the outcome of this appeal. "[A] jurisdictional finding good against one parent is good against both" because dependency jurisdiction attaches to the child, not the parents. (*In re Alysha S.* (1996) 51 Cal.App.4th 393, 397.) However, he urges us to exercise our discretion to review the sustained allegations against him in count a-1. DCFS argues that father's appeal is not justiciable and should be dismissed.

Under the doctrine of justiciability, courts generally do not act upon or decide moot questions or abstract propositions, nor do they issue advisory opinions. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491 (*I.A.*)). “An important requirement for justiciability is the availability of ‘effective’ relief—that is, the prospect of a remedy that can have a practical, tangible impact on the parties’ conduct or legal status.” (*Id.* at p. 1490.) “For this reason, an appellate court may decline to address the evidentiary support for any remaining jurisdictional findings once a single finding has been found to be supported by the evidence,” or is unchallenged. (*Id.* at p. 1492.)

On the other hand, we have recognized an exception to this general rule: “We generally will exercise our discretion and reach the merits of a challenge to any jurisdictional finding when the finding (1) serves as a basis for the dispositional orders that are also challenged on appeal [citation]; (2) could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings [citation]; or (3) ‘could have other consequences for the [the appellant], beyond jurisdiction’ [citation].” (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762, 763 (*Drake M.*)).

Father urges us to apply this exception here, citing the potential implications between being found “an ‘offending’ parent versus a ‘non-offending’ parent.” (*Drake M., supra*, 211 Cal.App.4th at p. 763.) We are not persuaded. In *Drake M.*, the court decided to consider the merits of the father’s appeal challenging a single jurisdictional finding regarding father’s use of medical marijuana. (*Id.* at pp. 762-763.) Crucially, the single jurisdictional finding was the difference between father being an “offending” or a “nonoffending” parent. (*Id.* at p. 763.) Here, by

contrast, father challenges only one of several jurisdictional findings regarding his conduct. Thus, the distinction relied on by the *Drake M.* court has no relevance here. (See *In re Briana V.* (2015) 236 Cal.App.4th 297, 310 [finding that *Drake M.* exception “does not apply where, as here, several jurisdictional findings have been sustained involving different conduct of the parent”].)

Indeed, father acknowledges that he “is not strictly non-offending” given the remaining counts. He contends, however, that the finding of intentional harm pursuant to section 300, subdivision (a) “carries a more significant stigma” than a finding of neglect pursuant to section 300, subdivision (b). Father fails to articulate any ways in which such a heightened stigma might possibly impact any future proceedings. Moreover, he ignores the fact that the allegations of domestic violence in count a-1 are mirrored in count b-1. Thus, the allegations of father’s conduct would remain unchanged regardless of the outcome of this appeal. Father’s vague assertions that the findings under count a-1 could impact possible future dependency or family law proceedings involving S. or “any future children of father” are insufficient to establish prejudice, particularly where he has declined to challenge the identical findings under count b-1. (See *I.A., supra*, 201 Cal.App.4th at p. 1495 [dismissing appeal and finding “no threatened prejudice” to father despite his argument that the jurisdictional finding might have some consequence in a future proceeding].)

Under these circumstances, “the issues Father’s appeal raises are “abstract or academic questions of law” [citation], since we cannot render any relief to Father that would have a practical, tangible impact on his position in the dependency proceeding. Even if we found no adequate evidentiary support for

the juvenile court's findings with respect to his conduct, we would not reverse the court's jurisdictional and dispositional orders nor vacate the court's assertion of personal jurisdiction over his parental rights." (*I.A., supra*, 201 Cal.App.4th at p. 1492.) Thus, we decline to address the substance of father's challenge to the court's jurisdictional findings.

DISPOSITION

The appeal is dismissed.

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COLLINS, J.

We concur:

MANELLA, P. J.

WILLHITE, J.